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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/749,264 | 12/31/2003 | Ian Legate | 1865-US | 8491 |
| 24313 | 7590 | 08/01/2006 | EXAMINER | |
| TERADYNE, INC 321 HARRISON AVE BOSTON, MA 02118 | | | TO, TUAN C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3663 | |
| DATE MAILED: 08/01/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,264

Applicant(s)

LEGATE ET AL.

Examiner

Tuan C. To

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 4, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klausner et al. (US 6748305B1) and in view of Seashore et al. (US 5916286A).

With respect to claims 1 and 9, Klausner et al. a system/method of storing data in a vehicle and evaluating said stored data. In Klausner et al, the vehicle data stored in a memory, and that said data can be acquired from a vehicle data bus (Klausner et al., abstract). The method of acquiring vehicle data is responsive to the execution of a telematics application on a local telematics unit. Such the telematics unit can be seen in figure 1 of Klausner et al. They are the units 111 through 116 which are connected via the data bus (108). The telematics application such as transmitting the data over data bus system is disclosed (Klausner et al., page 6, lines 39-47). Referring now to figure 3 of the patent, the claimed local vehicle library can be seen through the form of usage chip (101b), which includes a microprocessor (300) for data acquisition and analysis (Klausner et al, column 7, lines 7-11). In column 5, lines 8-23, Klausner et al. directs to the point "data going from these components to the data bus or data that can be retrieved from these components over the data bus", "data can be retrieved from memory 100". Therefore, Klausner et al. teaches "retrieving vehicle data bus information from a database". Also, in column 7, lines 26-35, Klausner et al. also teaches the following: "On microprocessor (300), data or information is extracted and interpreted", and that the interpreted data is also provided for the telematics application as discussed herein above.

Klausner et al. fails to disclose the following: "retrieving vehicle data bus information from a database that stores data bus information for a plurality of different makes of vehicles the retrieved vehicle data bus information being associated with the make of vehicle on which the telematics application is executed".

Seashore et al. teaches a portable automotive diagnostic tool as a local telematics unit that receives information from automotive computer of a vehicle. The vehicle makes are stored in the flash memory (34) (Seashore et al., figure 3; column 3, lines 9-11; column 7, lines). The flash memory stores automobile code for each vehicle type. The vehicle data regarding a type of vehicle is retrieved in according to an input from user (Seashore et al., column 8, lines 28 and 29).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Klausner et al. to include the teachings of Seashore et al. so that a mechanic is capable to retrieve a diagnostic test or a vehicle information of a service vehicle that needed to be repaired.

With regard to claim 4, Klausner et al. further teach that the telematics application includes a vehicle diagnostics application (Klausner et al, column 6, lines 39-47).

With regard to claim 10, Klausner et al. disclose that the vehicle information can be passed to a protocol driver, wherein such protocol driver is a CAN (Klausner et al., column 6, lines 39-41).

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klausner et al. (US 6748305B1), Seashore et al. (US 5916286A) as applied to claims 1 and 4, and further in view of Trsar et al. (US 20050021294A1).

Klausner et al. and Seashore et al. fails to disclose the following: "establishing a wireless link to a remote server, accessing a vehicle database with the remote server,

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and downloading vehicle data bus information to the local vehicle library from the remote database”.

The secondary reference to Trsar et al. is directed to a diagnostics service system/method including a data processing system (100), wherein said processing system includes a communication interface (218) coupled to bus (202). Communication interface may be local area network (LAN) card, wireless links, etc (Trsar et al, paragraph 0027, lines 8-11). The communication interface (218) is provided for establishing a wireless link to the remote server (230) through the Internet (227) (Trsar et al., paragraph 0029). In addition, the communication interface (218) is configured to send and receive electrical, electromagnetic or optical signals. Therefore, the communication interface (218) associates with bus (202) to gain advantage in accessing a vehicle database (storage device 210) with the remote server, and transferring vehicle information via the bus (202) to the processing system (100) from the server (230) (Trsar et al., figure 1C; page 3, paragraph 0028).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Klausner et al. to include the teachings as taught by Trsar et al. to gain advantage therefore (i.e., an authorized person is able to diagnose a vehicle system of a motor vehicle by collecting vehicle information via wireless connection to the Internet. The required parts needed for a replacement may be easily found after making the connection to the Internet).

With regard to claim 3, Klausner et al. disclose that the vehicle information can be passed to a protocol driver, wherein such protocol driver is a CAN (Klausner et al., column 6, lines 39-41).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See *In re Mraz*, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Response to Arguments

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., system and method for vehicles that employs different types of data buses) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In claim 1, the applicant rather recites: "retrieving vehicle data bus information from a database". The applicant recites data bus information but not different types of data buses.

Conclusions

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/tc

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July 21, 2006



JACK KEITH
SUPERVISORY PATENT EXAMINER